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IN THE

Supreme Court of the United States

OCTOBER TERM, 1968

No. 594

LEGAL INTEGRITY PRESERVATION SOCIETY, INC., and HENRY G. BARTSCH,

Petitioners,

v.

EUGENE X. MURPHY, REX K. NELSON and MARY V. BOWES,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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MEMORANDUM FOR EUGENE X. MURPHY AND REX K. NELSON IN OPPOSITION

EUGENE X. MURPHY
REX K. NELSON
419 - 4th Street, N. W.
Washington, D. C. 20001

Pro Se

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Petitioner Bartsch owned premises 126 C Street, N. W., in the late 1940s when he became embroiled in a running legal pro se battle with his wife and her counsel. He was jailed on a number of occasions for contempt and he moved to Maryland where he stayed about ten years to avoid arrest. He borrowed money from Mary V. Bowes to pay alimony and mortgage payments to avoid foreclosure of 126 C Street. He never repaid her. She purchased the property from him. He executed and delivered to her his

warranty deed. She never recorded it. He organized the Legal Integrity Preservation Society, Inc., to clear up corruption in the local bar and he became its first and only president. It had no place of business, no regular meetings, no books and no bank account.

Bartsch wanted 126 C Street as a base for his corporation and drafted and procured Mary Bowes' signature to an option giving his friend, Jake Wall, a one-year option to purchase. He had Mary Bowes deliver her unrecorded deed to Wall so, he thought, she would not be able to sell the property to anyone else. Wall did not exercise the option and permitted it to lapse and thereafter died leaving by will a bequest of $5,000 to Bartsch from his interest in 126 C Street which he had never acquired.*

Respondents Murphy and Nelson contracted with Mary Bowes' counsel to purchase 126 C Street for use as an office. Upon learning of this Bartsch executed a quit claim deed conveying the property to his corporation, Legal Integrity Preservation Society, Inc. Mary Bowes then conveyed the property to Murphy and Nelson by warranty deed, but because she had never recorded her deed and because Jake Wall and Bartsch refused her demands to return her deed the land tax division of the District of Columbia government refused to recognize the change in ownership for lack of continuity of title. Murphy and Nelson then filed suit for declaratory judgment naming Bartsch and Mary V. Bowes as nominal parties.

Bartsch and the Society answered generally denying but made no affirmative claim either cross or counter. At pre-trial Bartsch, pro se, attempted to interject the issue

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* Mary Bowes agreed to reimburse Wall for any expense he undertook in connection with the house if he did not exercise his option to purchase. The actual transfer of her unrecorded deed was a simple attempt to prevent a sale to anyone else. Wall, apparently at Bartsch's suggestion, had some of his relatives pay off a small balance on the mortgage. The relatives contended it was a loan to Wall. Mary Bowes knew nothing of this transaction.

of champerty. The examiner rejected his attempt and he did not file an objection with the court. The rejection of the examiner accordingly became the order of the Court under the rules. The Society did not contest title, but contended it was entitled to a constructive trust. It raised no issue of champerty.

The District Court found for respondents and entered a detailed Opinion and Findings of Fact (See Petition, Appendix A, pages 1a to 9a), and entered judgment (Appendix A, page 10a) vesting title to the property in respondents. Petitioners took an appeal, but Bartsch had no point to argue on appeal and accordingly made no assignments of error. The Society assigned champerty as error, as well as the failure of the Court to find a constructive trust in its favor. The Society abandoned champerty as an assignment of error, however, and argued a constructive trust only.

Petitioners' Question 2 (champerty) accordingly was not before the District Court or the Court of Appeals. In any event, respondents did not represent Mary V. Bowes at the time of the purchase, and all negotiations for purchase of the property were conducted through her own counsel. This litigation was necessitated only by Bartsch's refusal to return her deed to her for recording and his quitclaim deed which conveyed nothing. No champerty was involved regardless of the procedures involved.

Petitioners' Question No. 1 was not raised by the pleadings in the District Court. It was not raised during trial of the issues. It was not assigned as error before the Court of Appeals. Neither of the petitioners had any interest in the matter in any event and had no standing to litigate the matter. They still have no interest or standing to raise such an issue. Further, they misstate the facts.

Due process has been more than fully accorded to the petitioners. They present no reason for consideration by this Court and their petition for a writ of certiorari should be denied.

Respectfully submitted,

EUGENE X. MURPHY
REX K. NELSON
Pro Se

October 1968